IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3606 of 2005

WITH

SPECIAL CIVIL APPLICATION No.3608 of 2005

WITH

CIVIL APPLICATIONS No.2004 of 2005

in

SPECIAL CIVIL APPLICATION No.3606 of 2005

WITH

CIVIL APPLICATION No.2005 of 2005

in

SPECIAL CIVIL APPLICATION No.3608 of 2005

For approval and signature of :

HONOURABLE MR.JUSTICE R.S. GARG

HONOURABLE MR.JUSTICE RAVI R. TRIPATHI

==========

1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

==========

JEPURDUDHUTPADANKSAHAKARIMANDALILTD,JEPUR - Petitioner(s)

Versus

STATE OF GUJARAT &6 - Respondent(s)

==========

Appearance :

MR BB NAIK for Petitioner No(s).: 1,2.

Ms.Punami Sheth, Assistanat GOVERNMENT PLEADER for Respondent No. 1.

NOTICE SERVED BY DS for Respondent No(s).: 2,3.

MS JIRGA D JHAVERI for Respondent No(s).: 4.

==========

CORAM :HONOURABLE MR.JUSTICE R.S.GARG

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date : 05/07/2005

COMMON **ORAL JUDGMENT** (**Per : HONOURABLE MR.JUSTICE R.S.GARG)**

In accordance with the earlier directions, respondent-Director has field his personal affidavit in the matter.

1. Mr.Naik, learned counsel for the petitioner submitted that despite there being two circulars of 1965 and 1978, the authorised officers are not acting in accordance with law, nor are observing circulars issued from time to time. The submissions are that the fate of the elections are left to the discretion of such officers who are observing circulars in their breach. The affidavit filed by Mr.B.D. Takodara, Director of Agriculture, Marketing and Rural Finance, says that in fact there had been different circulars. He has stated that respondent no.3 did not include the name of the petitioner-society, i.e. Dudh Utpadak Sahakari Mandali, relying upon Circular dated 26.07.1996, wherein it is said that Dudh Utpadak Sahakari Mandalis are included in 'Market Mandalis'. He has further stated that according to the affidavit of respondent no.1 and Circular dated 08.06.1978 the name of the petitioner-Dudh Utpadak Sahakari Mandali be could included in the Voters' List provided it is dispensing agricultural credit for the purpose of animal `husbandry.
1. Taking into consideration the stand taken by the Director and the affidavit filed by him and also that the elections have already taken place we do not interfere in the

matter of election at this stage, but hereby direct that the Director shall issue a fresh notification clearly informing all concerned that the name of Dudh Utpadak Sahakari Mandali can be included in the Voters' List provided it is dispensing credit for the purpose of animal husbandry. It is further directed that he shall also issue a circular that if Dudh Utpadak Sahakari Mandali makes an application for inclusion of its name in the Voters' List, and if the authorised officer is satisfied after hearing the Mandali that it is dispensing agricultural credit for the purpose of animal husbandry, then it shall direct inclusion of the name of such Mandali in the Voters' List. It is further directed that in future if any authorised officer acts contrary to these directions, then he shall be exposing himself to serious consequences. We are making this order to remind such authorised officers that under pressure of one or the other they should not play with the election process which is the soul of democratic set up of the society. So far as the elections are concerned the petitioner shall be free to challenge the legality of the same in accordance with law. These petitions are disposed of. No order as to costs.

1. In view of disposal of the writ applications Civil Applications No.2004 of 2005 and 2005 of 2005 stand disposed of.

(R.S. Garg, J.)

(Ravi R. Tripathi, J.)

karim